

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES HURSTER, on behalf of himself)
and all others similarly situated,)
)
Plaintiff,)
)
v.) No. 4:21-CV-00318 JAR
)
SPECIALIZED LOAN SERVICING, LLC,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's motion pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 3.04 to strike Defendant's Motion for Summary Judgment or in the alternative stay Plaintiff's response deadline until 21 days after Defendant designates a Rule 30(b)(6) representative and makes them available for deposition. (Doc. No. 39). Plaintiff states that on December 9, 2021, one day before filing its motion for summary judgment, Defendant served a Second Supplemental Response to Plaintiff's First Requests for Production via email to the undersigned counsel. Plaintiff argues Defendant is relying on this new information in its summary judgment motion but failed to disclose it in its Rule 26 disclosures and in subsequent discovery. Plaintiff further argues Defendant has refused to designate a Rule 30(b)(6) corporate representative for deposition.

Defendant responds that the information provided was not unknown to Plaintiff; rather, Defendant did not have the requested documentation until recently and timely supplemented its discovery responses in accordance with Rule 26(e). In further response, Defendant asserts that it

never refused to produce a Rule 30(b)(6) witness and remains willing to do so, but that Plaintiff had agreed to provide Defendant with an amended notice of deposition and failed to do so.¹

Upon consideration, the Court will deny Plaintiff's motion. The Court notes that Plaintiff filed his memorandum in opposition to Defendant's motion for summary judgment on January 3, 2022 (Doc. No. 45) and has noticed the deposition of Defendant's Rule 30(b)(6) corporate representative for January 25, 2022 (Doc. No. 42). If the testimony of Defendant's corporate representative has any bearing on the issues and defenses raised in the motion for summary judgment, then Plaintiff may seek leave to file an amended response in opposition.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion to Strike Defendant's Motion for Summary Judgment or in the Alternative Stay Plaintiff's Response Deadline to After Defendant's Deposition [39] is **DENIED**.

Dated this 11th day of January, 2022.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE

¹ Defendant has requested oral argument on Plaintiff's motion. The parties have briefed their respective positions, and oral argument is not necessary for the Court to render a decision. Thus, Defendant's request for oral argument will be denied.